IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.1031 of 2007

Shri Harish Arjun Bhagde — Petitioner
Vs.
Sau. Nasrin Iqbal Memon — Respondent

Mr.M.J.Jamdar for petitioner.
Mrs.Rekha Shukla for respondent.

CORAM: B.H.MARLAPALLE, J.

April 27, 2007.

P.C.

. Heard Mr.Jamdar, the learned counsel for the petitioner-defendant who had submitted an application at Exhibit 43 claiming to be an application under Order XI Rule 14 of CPC. The said application has been filed by the learned Judge of the Small Causes Court at Pune without any order. It is clear from the said application itself that on the plaintiff's contentions the following additional issue has been framed i.e. Issue No.5:

> "Whether the suit on the ground of arrears of rent / default is maintainable for want of notice under Section 15(2) of the Maharashtra Rent Act."

. Thus the burden regarding the maintainability of the suit is cast on the plaintiff and, therefore, it is for the plaintiff to submit the necessary documents. Under these circumstances, no fault could be found that the order passed by the trial Court taking the application on record.

. Hence the petition is rejected summarily.

(B.H.MARL